November 2024

PwC Regulatory Update

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Legislative/ Government developments

Crypto Asset Reporting Framework and related amendments

The consultation seeks feedback on how Australia should implement the Crypto Asset Reporting Framework (CARF), developed by the Organisation for Economic Co-operation and Development (OECD) to enhance tax transparency for crypto assets. It compares two options: integrating CARF into Australian tax law or tailoring a customised policy approach, alongside related updates to the Common Reporting Standard (CRS).

CARF facilitates standardised, annual reporting of crypto transaction data by providers to tax authorities, enabling information sharing across jurisdictions to enhance compliance and deter tax evasion.

Submissions are due by 24 January 2025.

Source: Treasury

Consumer Data Right Rules – non-bank lending and banking data scope

Feedback is sought on proposed amendments to the Competition and Consumer (Consumer Data Right) Rules 2020, which aim to:

1. Expand the Consumer Data Right (CDR) to the non-bank lending sector.
2. Narrow the scope of CDR data for the banking sector.

These updates build on input from a previous consultation focused on extending CDR to non-bank lenders.

Submissions are due by 24 December 2024..

Source: Treasury

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What have the regulators been up to?

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02

APRA

The Australian Prudential Regulation Authority

APRA and ASIC release observations from the banking industry's implementation of the Financial Accountability Regime

APRA and ASIC have issued a letter highlighting observations on registration and notification lodgements under the Financial Accountability Regime (FAR) since its implementation for the banking industry.

Accountable entities under the FAR must ensure all prescribed responsibilities, including those linked to positions, are assigned to an accountable person. Gaps in responsibility assignments, particularly for general responsibilities or those involving significant related entities (SREs), should be addressed. Entities should also avoid multiple accountable persons holding joint responsibilities unless necessary and clearly articulated. Notifications must be made to regulators when key functions are undertaken, and when accountable persons cease or undergo material changes in their roles. Clear and timely reporting via FAR forms is essential.

Source: APRA

APRA consults on adjustments to its general insurance reinsurance framework

The Australian Prudential Regulation Authority (APRA) is consulting on targeted adjustments to its general insurance (GI) reinsurance framework. In response to reinsurance market developments and industry feedback, APRA is seeking to promote access to all forms of reinsurance and reduce regulatory burden.

Key objectives include enhancing access to reinsurance while maintaining insurers' financial resilience, reducing regulatory burden, and ensuring alignment with international standards. Proposed technical updates aim to streamline processes, improve transparency, and clarify expectations. APRA invites feedback on adjustments to reinsurance settings, approval processes, and the capital benefit of reinsurance arrangements. Additionally, feedback is requested on the impact of changes regarding all perils, reinstatement premiums, and other technical refinements.

Submissions to the consultation should be sent to APRA by 17 February 2025.

Source: APRA

AUSTRAC
Australian Transaction Reports and Analysis Centre

RBA
The Reserve Bank of Australia

AML/CTF Amendment Bill passes Parliament

The Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Amendment Bill 2024 has been passed, enhancing Australia's ability to combat money laundering and terrorism financing. Key reforms include:

- Expanding the AML/CTF regime to high-risk sectors, such as lawyers, accountants, trust and company service providers, real estate professionals, and dealers in precious metals and stones (tranche 2 entities).
- Simplifying compliance for businesses.
- Modernising the framework to address evolving threats and technologies.

The Financial Transaction Reports Act 1988 (FTR Act) will be repealed 28 days after the Bill receives Royal Assent, ending related reporting obligations while maintaining obligations under the updated AML/CTF Act.

AUSTRAC will collaborate with industry through forums and working groups to support implementation, develop guidance, and address system changes, continuing into 2025 and beyond.

Source: AUSTRAC

Statement by the Reserve Bank Board: Monetary Policy Decision

The Reserve Bank of Australia (RBA) has maintained the cash rate target at 4.35% and the interest rate on Exchange Settlement balances at 4.25%. While headline inflation has declined to 2.8% in the September quarter, underlying inflation remains high at 3.5% and is not expected to sustainably reach the target midpoint of 2.5% until 2026.

Economic growth is weak, with restrictive financial conditions and reduced real disposable incomes dampening household consumption, though labour market conditions remain tight with high participation and low unemployment. Globally, central banks are cautiously easing monetary policy amid ongoing uncertainties, including geopolitical risks and weak economic outlooks in key economies like China. The RBA emphasises that sustainably returning inflation to target is its highest priority, maintaining a restrictive policy stance and closely monitoring domestic and global developments to guide its decisions.

Source: RBA

ASIC
Australian Securities and Investments Commission

ASIC announces new enforcement priorities with a focus on cost of living pressures

ASIC has announced its enforcement priorities for 2025, capturing the key areas where it will direct resources and expertise in the coming year ASIC will focus on:

- Misconduct exploiting superannuation savings
- Unscrupulous property investment schemes
- Failures by insurers to deal fairly and in good faith with customers
- Strengthening investigation and prosecution of insider trading
- Business models designed to avoid consumer credit protections
- Misconduct impacting small businesses and their creditors
- Debt management and collection misconduct
- Licensee failures to have adequate cyber-security protections
- Greenwashing and misleading conduct involving ESG claims
- Member services failures in the superannuation sector
- Auditor misconduct
- Used car finance sold to vulnerable consumers by finance providers

In 2024, ASIC increased its new investigations by 25%, increased new civil proceedings by 23% and had important enforcement outcomes across areas from greenwashing to crypto, predatory lending, high-cost credit and insider trading. The agency continues to prioritise issues affecting market integrity, consumer protection, and compliance failures by large institutions, adapting to emerging risks and economic changes.

Source: ASIC

ASIC seeks feedback on proposed guidance on sustainability reporting regime

ASIC has released a draft regulatory guide for stakeholder consultation regarding a new sustainability reporting regime. Starting January 1, 2025, many large Australian businesses and financial institutions will be required to produce annual statutory sustainability reports with climate-related financial disclosures. The draft guide (Draft RG 000) provides instructions on who must prepare these reports, how the new regime will interact with existing legal obligations, and how ASIC will oversee the requirements. It also covers how ASIC may grant exemptions and use its new directive powers.

ASIC Commissioner Kate O'Rourke emphasised that the guide aims to help report preparers meet their obligations, ensuring users receive high-quality, law-compliant climate-related financial disclosures. ASIC is seeking feedback through Consultation Paper 380 (CP 380) until 19 December 2024 on the draft guide and whether current financial reporting relief measures should extend to sustainability reporting.

Source: ASIC

ASIC

Australian Securities and Investments Commission

ASIC releases new and updated guidance in response to the DBFO Act

ASIC has issued new and updated regulatory guidance in response to reforms under the Treasury Laws Amendments (Delivering Better Financial Outcomes and Other Measures) Act 2024 (DBFO Act). This includes four new information sheets addressing FAQs on topics such as ongoing and non-ongoing fee arrangements, Financial Services Guides (FSGs), website disclosures, and insurance commission consents, alongside updates to Regulatory Guides 246 and 175 to reflect revised conflicted remuneration and disclosure requirements. The changes aim to assist financial advisers in meeting new obligations under the DBFO Act, which take effect on 10 January 2025 for new fee arrangements. ASIC has also made amendments to other regulatory materials and plans to issue additional guidance after further legislative developments, with industry consultation.

Source: **ASIC**

03

Overseas developments

FSB assesses the financial stability implications of artificial intelligence

The Financial Stability Board (FSB) released a report "The Financial Stability Implications of Artificial Intelligence," to examine the growing adoption of AI in the financial sector and its potential effects on financial stability. Since its 2017 report, AI use in finance has expanded, particularly with generative AI and large language models enabling new applications like document summarisation and code generation. While financial institutions are cautious, the accessibility of these technologies could hasten their integration.

AI is also being utilised by financial authorities to improve supervision, but rapid innovation and limited data on AI use pose challenges in monitoring vulnerabilities. The report highlights benefits such as improved efficiency and personalised financial products but warns of risks like third-party dependencies, market correlations, cyber risks, and model governance issues. Generative AI could exacerbate financial fraud and disinformation, while misaligned AI systems might act outside legal and ethical boundaries, threatening stability.

Current regulatory frameworks address some AI-related vulnerabilities, the report calls for the FSB, standard-setting bodies, and national authorities to address data gaps, evaluate policy frameworks, and enhance regulatory capabilities, including cross-border information sharing and leveraging AI tools.

Source: FSB

FSB reports on progress towards globally consistent and comparable climate-related disclosures

The FSB released its 2024 progress report on climate-related financial disclosures, based on a survey of its member jurisdictions and contributions from standard-setting bodies and international organizations. The global focus is currently on aiding jurisdictions in adopting or being informed by the two disclosure standards issued by the International Sustainability Standards Board (ISSB) in 2023. Efforts are underway to provide implementation support, especially for small and medium-sized enterprises (SMEs) and companies in emerging markets and developing economies (EMDEs). Significant advancements have been made in aligning ISSB Standards with other regional frameworks and integrating them with financial and prudential reporting requirements.

The FSB report highlights findings from the International Financial Reporting Standards (IFRS) Foundation’s report on corporate climate-related disclosures, which was also published. The IFRS report finds that while there is encouraging progress in using TCFD recommendations and ISSB Standards, further advancements are needed.

Source: FSB

Basel Committee reaffirms expectation to implement Basel III; finalises guidelines to strengthen banks' counterparty credit risk management

The Basel Committee on Banking Supervision convened in Basel on November 19-20, 2024, to assess current market trends and risks to the global banking system, as well as to deliberate on policy and supervisory initiatives. The members unanimously reaffirmed their commitment to fully and consistently implement the Basel III framework as soon as possible, aligning with recent commitments from G20 Finance Ministers and Central Bank Governors. The Committee also finalised guidelines for counterparty credit risk management, addressing weaknesses identified during recent non-bank financial institution distress, with plans to publish these guidelines next month. Additionally, the Committee is reviewing its proposed Pillar 3 disclosure framework for climate-related financial risks, with expectations to finalise it in the first half of 2025.

Source: BIS

Euro area financial stability vulnerabilities remain elevated in a volatile environment

The European Central Bank's (ECB) November 2024 Financial Stability Review highlights increased financial stability risks due to macro-financial, geopolitical, and trade policy uncertainties. Though financial markets have shown resilience, vulnerabilities in equity and corporate credit markets could lead to further volatility. Non-banks might amplify market stress due to liquidity issues. Despite some improvement in sovereign debt ratios, fiscal weaknesses persist in certain euro area countries, with rising debt service costs posing sustainability risks. High borrowing costs affect corporate profits, while the real estate market shows mixed signals. The ECB advises maintaining capital buffers and sound lending standards and calls for policy measures to boost the resilience of non-bank financial intermediaries to enhance financial stability and support economic growth.

Source: ECB

EU banks continue to be robust although risks from geopolitical tensions and cyber threats remain significant, the EBA Report shows

The European Banking Authority (EBA) has published the Autumn edition of its risk assessment report (RAR). Europe's economic outlook is characterised by slow growth, low unemployment, and retreating inflation, though many countries still face inflation above central bank targets. Geopolitical tensions and slow growth create uncertainty, potentially affecting financial markets. EU banks are exposed to geopolitical risks, with over EUR 500 billion in direct exposures to high-risk countries. Risks may also arise from their links to non-bank financial institutions (NBFIs), which have a higher tendency for riskier lending. These exposures could impact asset quality, liquidity, and profitability.

In 2024, EU banks saw modest growth in total assets, driven by increased loans, debt securities, and equity holdings. However, asset quality showed slight decline, with non-performing loans (NPLs) rising, particularly in the SME and commercial real estate sectors. Banks' liabilities increased, with deposits remaining their primary funding source. Despite market volatility, banks' capital positions remained strong, with rising CET1 capital ratios. However, profitability lags behind US banks due to lower revenues.

Banks face rising operational risks, particularly from cyber threats and fraud, as digitalization increases. The shift to sustainable finance also brings risks like greenwashing. Additionally, AI adoption in banking presents operational and data privacy challenges. Despite these risks, EU banks maintain strong capital buffers, and their liquidity ratios remain robust.

Source: EBA

PRA and FCA publish consultation on pay for senior bankers

The Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) have proposed changes to reduce restrictions on senior bankers' bonuses. Key changes include reducing bonus deferral periods: five years for the most senior bankers (down from eight), and four years for others. Bonuses could be paid partially from year one instead of year three.

The proposals aim to improve UK banking sector competitiveness without compromising financial stability. They also seek to streamline remuneration rules, eliminating EU-originated guidelines, simplifying which bankers are subject to the rules, and reducing duplication of regulations between the two authorities. Additionally, the plans encourage stronger links between risk-taking and pay, ensuring firms adjust pay for risk-management failures. The consultation aims to align the UK's rules with international standards and strengthen accountability for senior bankers' actions, supporting both competitiveness and responsibility in the banking sector.

Source: BOE

Conclusion of the Solvency II Review

The PRA has published Policy Statement 15/24, finalising rules to replace Solvency II assimilated law. This marks the completion of the PRA's phased Solvency II Review, launched in 2020. The new regulatory framework ensures the safety and soundness of insurers while protecting policyholders. It also supports competitiveness and growth by introducing a more flexible regime, encouraging investment and market entry in the UK insurance sector. PRA CEO Sam Woods called it a "significant milestone" and confirmed the new rules will take effect by late 2024, with further regulatory updates planned for 2025 and beyond.

Source: BOE

Enforcement regulatory disclosure review: outcome

The FCA has implemented changes to its disclosure processes in regulatory enforcement cases following recommendations in *Seiler and others v FCA* [2023] UKUT 00133. Key updates include:

- Adopting a broader approach to disclosure, reviewing all relevant material, not just potentially undermining evidence.
- Enhancing training for staff, including specialist and quality assurance guidance.
- Clarifying roles and responsibilities for staff and managers involved in disclosure.
- Emphasising importance of disclosure in measuring and rewarding staff performance.

The FCA aims to disclose all relevant materials unless disproportionate or against public interest. These changes are intended to improve the quality of disclosures and will be reviewed for effectiveness after 12 months.

Source: FCA

FCA finds crypto ownership continues to rise as it delivers plans to regulate crypto

The FCA's latest research reveals that 12% of UK adults now own crypto, up from 10%, with average holdings increasing from £1,595 to £1,842. Awareness of crypto also rose slightly to 93%. Family and friends remain the top source of information for non-buyers, while 1 in 10 buyers admit to skipping research. A third of respondents incorrectly believe they could raise complaints with the FCA for crypto-related issues, despite crypto being largely unregulated and high-risk in the UK. The FCA has introduced a roadmap for regulating crypto, featuring focused consultations to ensure transparency. Matthew Long emphasised the need for clear regulations to foster a safe, innovative and trustworthy crypto sector.

Source: FCA

SEC Announces Enforcement Results for Fiscal Year 2024

In fiscal year 2024, the SEC filed 583 enforcement actions, a 26% decrease from the previous year, while securing $8.2 billion in financial remedies, the highest amount in SEC history. The remedies included $6.1 billion in disgorgement and prejudgment interest, and $2.1 billion in civil penalties. Notably, 56% of the financial remedies stemmed from a jury trial victory against Terraform Labs and founder Do Kwon for securities fraud. The SEC also barred 124 individuals from public company leadership, the second-highest such number in a decade, and distributed $345 million to harmed investors.

Market participants increasingly practiced proactive compliance, reporting violations and cooperating with investigations, leading to reduced penalties in some cases. The SEC pursued enforcement in areas like artificial intelligence, social media-driven scams, and cybersecurity, alongside traditional risks like misstatements, fraud, and internal control failures.

High-profile actions included fraud charges against several companies, including Terraform Labs, FirstEnergy, and Morgan Stanley, which faced penalties totaling millions. The SEC also focused on protecting whistleblowers, with an $18 million penalty against J.P. Morgan. Noteworthy trials included the SEC's first crypto-related trial, resulting in a $4.5 billion penalty, and a successful insider trading case involving Pfizer's acquisition of Medivation. The SEC’s efforts highlight its commitment to investor protection and market integrity.

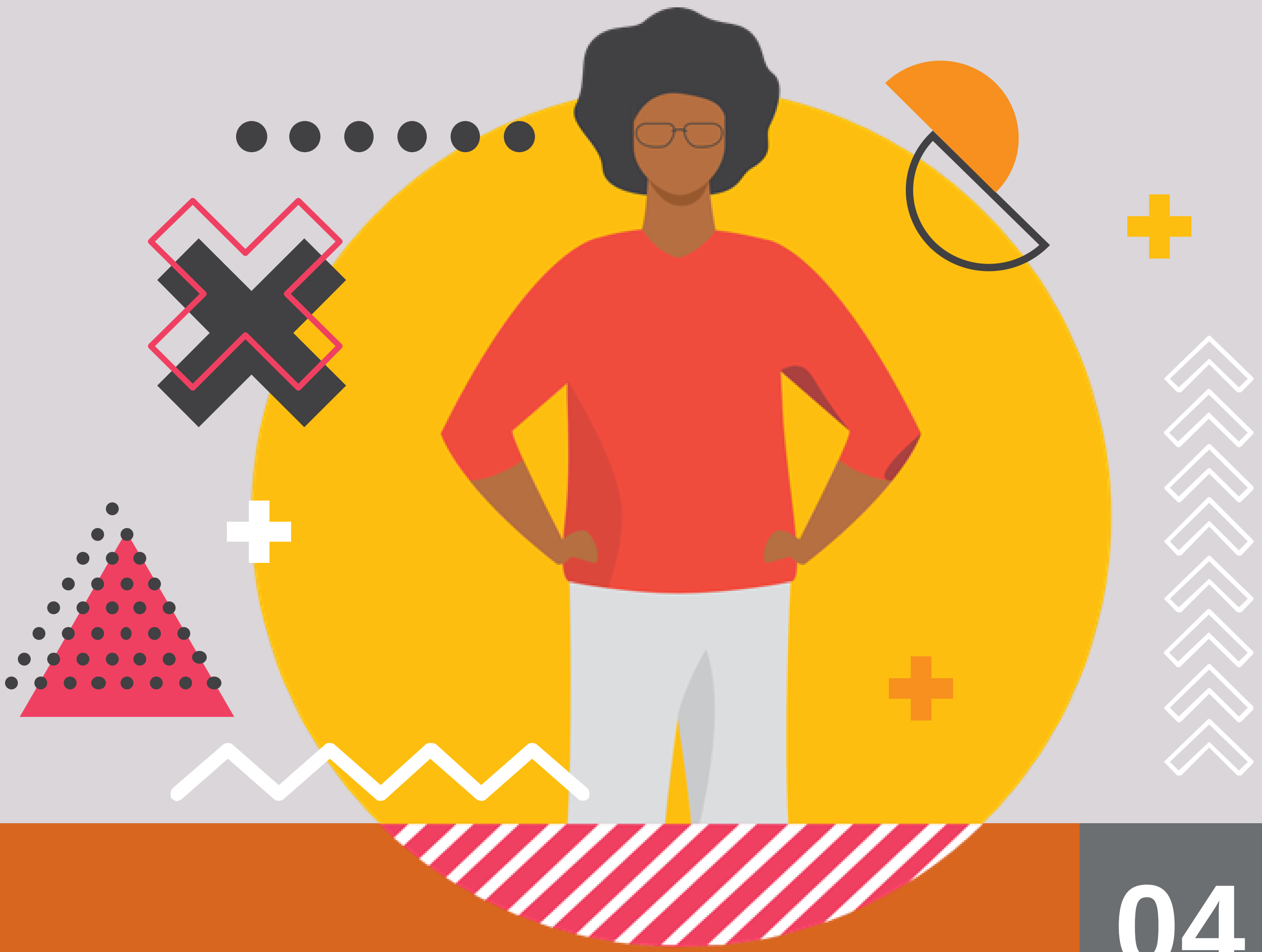
Source: SEC

CFTC’s Global Markets Advisory Committee Advances Recommendation on Tokenized Non-Cash Collateral

The Commodity Futures Trading Commission’s (CFTC) Global Markets Advisory Committee (GMAC) has advanced a recommendation to expand the use of tokenised non-cash collateral via distributed ledger technology (DLT). This proposal aims to improve the efficiency of derivatives markets by addressing operational challenges in using non-cash assets for margin requirements, such as collateral management.

CFTC Commissioner Caroline D. Pham highlighted successful global use cases, including digital bond issuances and enterprise blockchain platforms. The recommendation, which maintains regulatory protections, offers a framework for incorporating DLT into existing margin rules, promoting innovation without compromising market integrity. This marks the 14th GMAC recommendation in a year, reflecting significant progress in digital asset regulation.

Source: CTFC



04

PwC Publications

Stress Testing Framework

PwC Australia has released an article on the stress testing which has gained increased importance due to APRA's focus on risk management amid global challenges such as geopolitical tensions, climate change, inflation, and cyber threats. This has led institutions to prioritise robust data infrastructure, better alignment of models with strategic goals, and greater board involvement in reviewing outcomes. Globally, regulatory demands for stress testing have grown, addressing idiosyncratic risks and prompting the adoption of international best practices, such as APRA's upcoming financial system stress test, inspired by the Bank of England's approach. Other global trends include climate risk and cyber resilience stress testing. Institutions now have an opportunity to evaluate and improve their stress testing frameworks to ensure efficiency and generate meaningful results under various scenarios. Strengthening these frameworks will enhance resilience, adaptability, and the ability to make informed, strategic decisions in an evolving environment.

See: Publication

Breaking down the complexity of retirement for super funds

PwC Australia has released an article on super funds in Australia face growing pressures, such as budget constraints, mergers, and regulatory reforms, which risk distracting them from their core mission: securing members' retirement income. Many funds are struggling to align their strategies with the evolving needs of retirees, with a third of 12 major funds reporting that retirement strategy has been deprioritised. Despite these challenges, regulators emphasise that supporting members' retirement outcomes must remain central to decision-making.

To address these issues, funds should adopt a "whole-of-life" engagement model, focusing on both pre-retirement and post-retirement phases. Key strategies include enhancing member engagement and education, providing tailored advice, and improving product offerings. For instance, many members face involuntary retirement but lack targeted support. Funds must proactively offer personalised assistance, such as education, advice, and product options.

Additionally, funds need to better utilise existing resources, including technology, data, and workforce capabilities, to optimise retirement income strategies. Effective cross-functional teams can drive these efforts by continuously testing and adjusting strategies to meet member needs. By focusing on engagement, education, advice, and product innovation, super funds can better navigate the complexities of retirement planning and deliver improved outcomes for members.

See: Publication

Building sustainable GenAI ROI in insurance

PwC US has released an article on the measurable ROI of building AI technology in Insurance. Insurers are increasingly exploring the potential of generative AI (GenAI) to enhance operations, including underwriting, claims processing, and customer engagement. However, the ROI has been slow to materialize, as pilots often fail to produce significant financial returns. Traditional ROI models prioritise short-term financial gains, which may not adequately capture GenAI's long-term value.

To address this, insurers should recalibrate expectations, focusing on how GenAI contributes to strategic goals and long-term growth. Data infrastructure, regulatory challenges, and industry-specific barriers, such as siloed data and legacy systems, hinder GenAI's potential. A comprehensive AI strategy, including predictive analytics and machine learning, is essential for leveraging GenAI effectively, fostering organisational adaptability, and realising long-term benefits beyond immediate financial returns.

See: **Publication**

Regulators set out final rules for critical third parties to the UK financial sector

PwC UK has released an article on the final rules for the critical third parties (CTPs) regime. This regulation brings into the regulators' perimeter third parties which provide services to firms for which failure or disruption could threaten the stability of, or confidence in, the UK financial system.

The BoE, PRA and FCA (the regulators) issued the final rules for the CTPs regime on 12 November 2024. The package includes an overall policy statement (PS16/24), a supervisory statement (SS6/24) setting out the rules, a second supervisory statement (SS7/24) on Skilled Person reviews, the regulators' Memorandum of Understanding, and a document summarising their Approach to the Oversight of CTPs.

CTPs will be designated by HM Treasury (HMT) on the basis of the regulators' recommendation if they provide 'systemic third party services': those services provided to regulated financial services firms that, if disrupted, could threaten the stability of, or confidence in, the financial system. The final rules are largely aligned with those proposed in the earlier Consultation Paper CP 26/23. However, the regulators have responded to feedback and have made changes to clarify, amend or moderate certain requirements and expectations.

See: **Publication**

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